

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

Edith McCurry,

Plaintiff

v.

Mars, Kenco Logistics Services, LLC, The Hartford Financial Services Group, Inc., The Reed Group and Dr. Koehler,

Defendants.

Case No. 19-CV-04067

Judge Sharon Johnson Coleman
Magistrate Judge Gabriel A. Fuentes

**DEFENDANT KENCO LOGISTIC SERVICES, LLC'S
MOTION TO EXTEND FACT DISCOVERY**

Defendant, Kenco Logistic Services, LLC ("Kenco"), moves to extend fact discovery by 30 days. In support thereof, Kenco states as follows:

1. Plaintiff Edith McCurry brings claims alleging that her former employer, Defendant Kenco Logistic Services, LLC, engaged in discrimination in violation of Title VII (42 U.S.C. §2000e) and 42 U.S.C. §1981 along with violations of ERISA by denying or delaying her long-term disability benefits. (*See* Dkt. No. 1).
2. At all times, Kenco has asserted that Kenco is not a proper defendant in this lawsuit, because Kenco played no role in any decisions related to McCurry's long term-disability benefits, which were handled by Kenco's third-party benefits administrator, the Hartford.
3. Thus, documents in the possession of the Hartford, and not Kenco, will reflect that all decisions surrounding McCurry's long-term disability benefits were made exclusively by the

Hartford. These documents are significant to the resolution of this litigation, and the key defense that Kenco has asserted since the onset of the litigation.¹

4. On November 9, 2020, the Court entered an order setting a fact discovery closure date of March 9, 2021. (Dkt. No. 100).

5. On or about January 28, 2021, Plaintiff McCurry issued a subpoena for documents to the Hartford.

6. On February 26, 2021, the Hartford filed a motion in the U.S. District Court for the Central District of Illinois to modify Plaintiff's subpoena for documents and to extend the time to comply until March 26, 2021. A copy of the motion is attached as *Exhibit B*. This motion is currently pending.

7. Defendant Kenco needs to review the Hartford's subpoena response prior to notifying the Court when the Parties are ready to close fact discovery and set a dispositive motion deadline, or alternatively, if any limited follow-up discovery is necessary.

8. In addition, Defendant Kenco is presently reviewing the documents recently produced by McCurry on February 15, 2021, and those additional documents that will be produced by the Hartford, in order to determine what if any additional defenses may be available, including under ERISA.²

¹ Notably, the Hartford agrees that it exclusively made all decisions surrounding McCurry's benefits and already stated as much on the record to the Court during oral argument. (*See Exhibit A*, Transcript from Oral Argument, p. 30 stating "Hartford is the insurer of the group policy. Hartford did make the decision with regard to Miss McCurry's long-term disability claim...").

² Plaintiff represented to Kenco that she was recovering from COVID-19 and therefore requested a lengthy extension to respond to written discovery and produce documents. Kenco did not object to this request.

9. Accordingly, Defendant Kenco requests that the Court extend the fact discovery cutoff date by 30 days, until April 8, 2021, to allow an opportunity for both Parties to receive and review documents in response to McCurry's subpoena to the Hartford.

10. Kenco anticipates that when the parties return to Court on a date after April 8, 2021, Kenco will be in a position to request a deadline in the weeks thereafter for the filing of any motion for summary judgment, or to identify any additional limited remaining fact discovery, if necessary.

11. On March 4, 2021, prior to filing this motion, Kenco contacted Plaintiff via email to inquire about whether she had any objection to this motion. Kenco did not receive a response as of the time this motion is being filed.

WHEREFORE, for all the reasons stated herein, Defendant Kenco Logistic Services, LLC requests that the Court grant its motion and extend fact discovery by 30 days, until April 8, 2021, and grant such additional relief as the Court deems proper.

DATED: March 5, 2021

Respectfully submitted,

KENCO LOGISTIC SERVICES, LLC

By: /s/Jody Wilner Moran
One of its Attorneys

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CERTIFICATE OF SERVICE

I, Jody Wilner Moran, an attorney, hereby certify that on March 5, 2021, I electronically filed a copy of the foregoing **DEFENDANT'S MOTION TO EXTEND FACT DISCOVERY** with the Clerk of Court using the CM/ECF system, which will send a notice of electronic filing, and a copy was also mailed and emailed to:

Edith McCurry (pro se)
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By: /s/ Jody Wilner Moran

One of the Attorneys for the Defendant